

Material Transmitted:

HHS Personnel Instruction 532-1, Pay Setting - Federal Wage  
System Employees

Material Superseded:

HHS Instruction 532-1 (all)  
HHS Instruction 531-3 (all)

Background:

This Instruction has been revised consistent with recent changes in the organization of HHS, and in support of HHS administrative initiatives calling for more streamlined rules and greater delegations of authority.

Under this issuance, two Instructions have been consolidated because of similar subject matter and the need for greater streamlining of the rules.

Any reference to "OPDIV" in this Instruction now includes AHCPR, ATSDR, CDC, FDA, HRSA, IHS, NIH, SAMHSA, the Office of the Secretary, the Program Support Center, HCFA, ACF, and AOA.

This issuance is effective immediately. Implementation of this issuance must be carried out in accordance with applicable laws, regulations, bargaining agreements, and Departmental policy.

Filing Instructions:

Remove superseded material and file new material. Post receipt of this transmittal to the HHS Check List of Transmittals and file this transmittal in sequential order after the check list.

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INSTRUCTION 531-1

HHS PERSONNEL INSTRUCTION 532-1  
PAY SETTING - FEDERAL WAGE SYSTEM EMPLOYEES

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532-1-00 PURPOSE AND AUTHORITY

This Instruction states the Department's policy and requirements for setting pay for Federal Wage System (FWS) employees. Authority for this activity is set forth in Part 532 of the Office of Personnel Management (OPM) regulations and the OPM Operating Manual - Federal Wage System, dated 1996. The OPM regulations provide for certain flexibilities within which Federal agencies may make their own policy decisions concerning rates of pay for FWS employees.

532-1-10 COVERAGE

This Instruction covers prevailing rate (FWS) employees within this Department.

532-1-20 REFERENCES

- A. 5 U.S. Code, Chapter 53 (law - pay rates and systems)
- B. 5 CFR, Part 315, Subpart I (regulations - probation on initial appointment to a supervisory or managerial position)
- C. 5 CFR, Part 532 (regulations - prevailing rate systems)
- D. 5 CFR, Part 536 (regulations - grade and pay retention)
- E. HHS Instruction 430-4 (employee performance management system: performance appraisal)
- F. HHS Instruction 531-2 (setting salary)
- G. HHS Instruction 531-4 (within-grade and quality step increases)
- H. Operating Manual - Federal Wage System (1996 Updated OPM publication)

532-1-30 WITHIN-GRADE INCREASES (WIGIs)

5 U.S. Code 5343(e)(2) requires that an FWS employee be automatically advanced to the next higher within-grade step (following completion of the required period of creditable

service) provided the employee has a work performance rating of satisfactory or better. It is the policy of this Department that within-grade increase decisions for FWS employees will be made in accordance with performance requirements in HHS Personnel Instruction 430-4 and delegations of authority in HHS Personnel Instruction 531-4.

#### 532-1-40 FEDERAL WAGE SYSTEM ANNUAL PAY ADJUSTMENT

The Program Support Center automatically updates the salaries and produces SF 50s for the annual pay adjustment for FWS employees working in the Washington, D.C., metropolitan area if these employees' pay rate determinate codes in the personnel master is either O, A, B, E, F, J, or K. Servicing personnel offices must process all pay adjustments for FWS employees outside the Washington, D.C., metropolitan area, regardless of the pay rate determinate code.

#### 532-1-50 HIGHEST PREVIOUS RATE

##### A. General Policies

1. When the use of the highest previous rate (HPR) is optional under Government-wide regulations, the Department's policy is that the manager who approves a Request for Personnel Action is authorized (unless otherwise provided) to approve the employee's rate of pay after consultation with the personnel officer or his/her designee. That rate of pay may be any rate between the basic rate for the position and the HPR, subject to the restriction in 532-1-50B below. In this situation, the employee has no entitlement to a particular rate of pay.
2. When applying the HPR, care must be taken to avoid windfalls in pay for employees being reinstated or transferring from other Federal entities which have pay schedules that are substantially higher than local area pay rates.
3. The HPR remains available for use in subsequent promotions or movement of the employee to another position, unless the restriction in 532-1-50B is applicable.

##### B. Restriction

The HPR cannot be used unless an employee's most recent annual performance rating is fully successful or better. If a performance rating is not available, because the individual involved is being reinstated or transferred from another agency from which the rating is unavailable, a presumed fully successful rating shall be applicable.

C. Effect of Temporary Promotion

The HPR may be used when setting salaries after temporary promotions of one year or more. If the HPR is not used, the employee is placed at the step he/she would have attained had there been no temporary promotion.

D. Change to Lower Grade for Cause

Employees who are changed to lower grades for personal cause cannot have their pay set pursuant to the HPR. When employees are changed to lower grades for cause (e.g., inefficiency, less than fully successful performance, misconduct, etc.), their pay will be set in the lower grades so that there is a reduction in pay equivalent to at least two within-grade increases in the higher grade from which being reduced. If the two-step equivalent computation (based on an hourly rate) falls between two steps of the lower grade, the lower step rate must be used. Management may set the employee's pay as low as the first step of the grade to which the employee is demoted.

Note: In accordance with 536.105, an employee who is downgraded for cause is not eligible for retained pay. Therefore, if the employee's pay, after the above computation, falls above step 5 of the lower grade, pay will be set at step 5.

E. Change to Lower Grade at Own Request (Including Those Involving Transfers)

1. The HPR cannot be used when an employee is changed to a lower grade at his/her own request, except as indicated in 2 below. (If an employee is eligible for grade and pay retention, his/her salary should be set in accordance with 5 CFR 536.)
2. When the employee-requested action also serves the convenience of the Government, the employee's pay may be set at the step represented by the HPR, or at a lower

step. The fact that an action serves the convenience of the Government must be supported by documentation that reflects management's need for the employee's skills and knowledge in the specific situation and that filling the position with the employee avoids costs that would otherwise accrue through recruitment, reduction in force, training, etc. (If FWS employees are eligible for grade and pay retention, their pay shall be set in accordance with HHS Instruction 531-2 and the OPM Operating Manual - Federal Wage System, Subchapter S9.)

3. When an employee requests a change to a lower grade, to a position which is less than the top of a career ladder, the highest rate that may be used in setting the employee's salary is the rate in the lower grade which, upon repromotion, will place the employee at the rate of pay he/she would have attained if the employee had remained in the former grade (unless the exception in 2 above applies). This includes any step increases the employee would have received if he/she had remained at the higher grade during the period of qualifying for repromotion. For example, if an employee would have received step 3 of the former grade during that period, the rate of pay at step 3 is used in determining the employee's pay at the lower grade.

If the employee would not have been eligible for a step increase at the former grade between the time of the change to lower grade and the time the employee will qualify for repromotion, the step increase cannot be credited in setting the employee's pay at the lower grade. For example, if the employee qualifies for promotion within 4 months after a change to a lower grade and the step increase at the higher grade is due in 9 months, that step increase cannot be credited.

#### F. Special Pay Rates

Special pay rates for recruitment and retention as provided in 5 U.S. Code 5305 can be used as the HPR under the conditions outlined below:

1. Reassignment must be from and to positions within this Department.
2. The special rate must be the employee's current rate of pay.

3. The servicing personnel officer/designee with appointing authority for the position being filled (based on recommendations from both gaining and losing management officials) must determine that the need for services of the employee will be greater in the new position.

G. Change from General Schedule to FWS

1. When General Schedule (GS) employees move to the FWS, their pay is set in accordance with Subchapter S8-3.c and d and Subchapter S9 in the OPM Operating Manual - Federal Wage System.
2. When GS employees move to the FWS and a nonforeign cost-of-living allowance is applicable to the former GS position, set pay pursuant to Subchapter S8-3.c and d as well as 3.g (5) and (6) of the OPM Operating Manual - Federal Wage System.

H. Documentation of Intended Use of the HPR

When a personnel office intends to use the HPR but does not have sufficient proof of an applicant's or an employee's previous rate of pay, it cannot grant the HPR until it receives the necessary documentation. Pending receipt of the documentation, the servicing personnel office must annotate the employee's Notification of Personnel Action (SF 50) with regard to its intent to use the HPR. The employee's pay will be set at the lowest step or other appropriate step of the grade until documentation is received. Upon receipt of confirmation of the HPR, the employee's salary will be adjusted retroactively to the date of appointment. Acceptable documentation is an SF 50 or like document, or the employee's official earnings and leave statement.